Policy Paper: Financial Regulation

Consumers often find themselves disadvantaged in relation to financial service providers, in terms of information, pricing and product terms. This is because of differences in market power, the inherent complexity of many financial products and certain natural consumer behaviours. Regulation is necessary to ensure consumers are treated fairly, to avoid the build-up of unmanageable debt and to make it easier for consumers to behave in financially capable ways.

What are the issues?

The UK has a large financial sector providing a huge range of retail consumer products, from insurance to credit cards, mortgages to funeral plans. Some products, such as ISAs and pensions, involve saving; others, such as personal loans and overdrafts, involve taking on debt. The finance sector is significant for individuals and households, but also for the economy as a whole through its influence on the level of demand and spending. As we saw in 2008-09, excessive debt combined with product complexity and institutional risk-taking can have serious consequences for individuals, families and society as a whole.

The UK financial system is overseen by a number of regulators, of which the Financial Conduct Authority (FCA) has key responsibility for regulating the behaviour of financial firms toward consumers. In recent years, in a welcome trend, the FCA has intervened to change the rules in consumers' favour in a number of markets where consumer harm has occurred, for example pay-day loans, overdrafts, credit cards and buy-now-pay-later deals.

Financial markets evolve constantly, new products are invented and firms that are regulated in one direction may seek to profit in another. For these reasons, financial regulation is an ongoing process of adaptation. In the future, further regulation will be needed as new harms emerge or old ones return. The FCA has a range of responsibilities including encouraging competition, preventing consumer harm and ensuring that those firms within its prudential oversight maintain sound financial practices.

While the principal purpose of regulation is to serve consumers, many financial firms see the value of regulation, because it sets the ground-rules for competition and establishes a level playing field. It is easier for firms to behave well if their competitors are required to do so as well.

The Money Charity believes the purpose of financial regulation is to:

- Focus on consumer welfare.
- Identify potential sources of consumer harm and take preventative measures.
- Remedy harm where it occurs.
- Ensure that people are only able to borrow what they can afford.
- Ensure that people are treated fairly if they get into difficulty.
- Set frameworks, ground-rules and boundaries, eg the advice/guidance boundary.

Financial regulation has a vital role to play in promoting financial capability, by creating rules, guidelines and choice architectures that help consumers behave in financially capable ways. Financial regulation should take account of the varying levels of financial capability in society, ensuring that financial products and services are safe to consumers at all capability levels. Regulation should avoid adding to complexity in a way that goes beyond the financial capability of most people.

What needs to happen?

Overall

- The regulatory perimeter should be amended so that all financial products and services promoted to retail customers are FCA-regulated.[1]

[1] At present, for example, selling investments in gold or certain types of crypto-asset (or providing advice on such investments) falls outside the FCA regulatory perimeter, despite the consumer harm

- The Financial Conduct Authority (FCA) should introduce a Duty of Care on the part of firms to avoid reasonably foreseeable harm to the consumer and to act in the consumer's best interests.[2]
- Financial regulations should be designed for 'real world consumers' not for an abstract rational or hyperactive consumer.
- The FCA should protect all consumers, but should be particularly vigilant in protecting those on low incomes or in vulnerable situations.

Communications about financial products

- The language used in product promotions, statements and terms and conditions should be tailored to the actual levels of financial and reading literacy of the target consumers.
- Communications should be consumer-tested for comprehension.
- Where a product involves fees and charges, these should be set out clearly so the consumer can see accurately and easily the full cost of the product.

Financial product pricing

- The FCA should ensure that the prices of all financial services are set within a fair range, applying a socially endorsed standard of 'fairness'.[3]
- Demand-based price discrimination (the 'loyalty surcharge') should be banned, except for a strictly time-limited switching bonus, eg a one year preferential rate or cash bonus.
- Fair minimum interest rates should be paid on savings. 'Loyal savers' should not be penalised.
- The FCA should tighten the rules on short term debt (eg credit card debt) to stop short term lending becoming long term debt at short term interest rates.

A consultative approach to financial regulation and financial capability

- The FCA should work with HMT, the Bank of England, the Money and Pensions Service and the Department for Education to develop a joined-up consumer environment favourable to the improvement of financial capability across the UK population.

---

that may arise from investment in such assets. See: https://www.fca.org.uk/publication/consultation/cp19-03.pdf

[2] See: https://themoneycharity.org.uk/media/The-Money-Charity-Response-FCA-Duty-of-Care-Consultation-Nov-2018.pdf

[3] See The Money Charity 2019, Response to FCA consultation on fair pricing in financial services. Available at: https://themoneycharity.org.uk/media/The-Money-Charity-Response-FCA-DP-on-Fair-Pricing-in-Financial-Services-Jan-19.pdf

- The FCA should continue consulting with consumer groups and charities to ensure the consumer voice is heard as loudly as possible in designing financial service regulations.

See also: our policy paper on Credit and Debt.

The Money Charity is the UK's financial capability charity providing education, information, advice and guidance to all.

We believe that everyone achieves financial wellbeing by managing money well. We empower people across the UK to build the skills, knowledge, attitudes and behaviours to make the most of their money throughout their lives, helping them achieve their goals and live a happier more positive life as a result.

We do this by developing and delivering products and services which provide education, information and advice on money matters for those in the workplace, in our communities, and in education, as well as through influencing and supporting others to promote financial capability and financial wellbeing through consultancy, policy, research and media work.

We have a 'can-do' attitude, finding solutions to meet the needs of our clients, partners, funders and stakeholders.

Tel: 020 7062 8933

hello@themoneycharity.org.uk

https://themoneycharity.org.uk/